Supreme Court, U.S.
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No. _

In The

SUPREME COURT OF THE UNITED STATES

Paul J. Southwick

Petitioner

v.

Marguerite A. Crownover et. al.

Respondents

On Petition For Writ Of Certiorari

To The

First District Court of Appeal,

Division Three, State of California

PETITION FOR A WRIT OF CERTIORARI

Paul J. Southwick,

Presenting in Pro Se

925 Lakeville St. #186

Petaluma, Ca. 94952

707-364-1340

QUESTIONS PRESENTED

I. Whether a state Supreme Court may deny review under the fifth and fourteenth amendments where a lower court of appeal has acknowledged a violation (deprivation) of an appellant's due process.

II. Whether a state Supreme Court must mandatorily grant a petition for review and yield to the supremacy clause when that state's constitution authorizes judicial discretion to decide what cases it will review *after* a due process deprivation has been acknowledged.

III. Whether it is a further denial of due process or equal

protection not to treat an appeal as a peremptory writ and remand for further proceeding consistent to the right to have a full, fair, and fundamental hearing, including live cross examination, or the proffering of documentary evidence.

IV. Whether it is a miscarriage of justice, or an obstruction of justice, for a deputy state attorney general representing a county in intervention to strike the augmenting of an official certified transcript of a prior O.S.C. hearing, during the interlocutory stages of the appeal, that presents a prima facie fact the respondent has committed felony perjury, conspiracy,

witness tampering, or has fabricated evidence in conjunction with a *fraud on the court.*

V. Whether a denial of due process or equal protection is an abuse of judicial discretion. *(There appear to be no California or Federal Cases That Petitioner can locate regarding these Questions).*

LIST OF PARTIES

Sonoma County Department

Of Child Support Services (DCSS)

As Intervenor, (et al.)

(Note): Petitioner, Paul J. Southwick, is NOT related to the Hon. Leslie H. Southwick, Justice of the U.S. Fifth Circuit Court of Appeals.

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TITLE 28 UNITED STATES CODE.

§ 1257 (a) State courts; certiorari

(a) Final judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court by writ of certiorari where the validity of a treaty or statute of the United States is drawn in question or where the validity of a statute of any State is drawn in question on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, or where any title, right, privilege, or

immunity is specially set up or claimed under the Constitution or the treaties or statutes of, or any commission held or authority exercised under, the United States.

(b) ***Martin v. Hunter's Lessee, 14 U.S. 304, 4L. Ed. 97, 1 Wheat. 304, 1816 U.S. Lexis 333 (1816)***

Issue: Does the U.S. Supreme Court have

appellate jurisdiction over state court decisions involving federal law?

Holding and Rule: Yes. The U.S. Supreme Court has appellate jurisdiction over state court decisions

involving federal law. An acknowledged violation of due process must certainly come under this rule as it *most likely* cannot sustain a constitutional challenge.

CONSTITUTIONAL PROVISIONS INVOLVED:

Article VI, Section [2] of the United States Constitution

Article V, of the United States Constitution

Article XIV, of the United States Constitution

Article VI Section 21, California

Constitution

Article VI Section13,

California Constitution

STATEMENT OF THE CASE:

In May of 2007, Petitioner, Paul J. Southwick, received an notice from the California Contractor's State License Board that his Professional License would only be renewed on a temporary basis for only 150 days due to an "Existing" outstanding child support order pursuant to Family Code 17520. In October after months of telephone negotiations with Sonoma DCSS case

worker Noel Francis, in his attempt to obtain a copy of this "existing" order, with no avail, filed petition Re: "Judicial Review of License Denial" to address the problem. No notice of a commissioner actin in the matter appeared on the form and it was set to be heard before commissioner Louise Bayles~Fightmaster Dept. 11, of the Sonoma Superior Court in early October of 2007. No one from the Dept. of Child Support Services appear on behalf of the County appeared, nor did Crownover, despite proper notice and service. A law clerk acting under supervision from Susan Silverek, forom the D.A's office

showed up instead. Southwick was coerced into singing a stipulation in the hallway by Jenna Holthouse in order to get the hold removed from his contractors license. He never saw Commissioner Fightmaster until all of the cases were heard and after the stipulation was presented to the clerk. Fightmaster was in chambers the entire time. Southwick offered to pay $200.00 per month to get the hold lifted and asked for further review. In January Southwick filed his motion to set aside the arrears after eight long months of "gumshoe' investigation of his own case. The matter was calendared for April 15, 2008 before

Fightmaster. The Case was dropped from calendar, and re-calendared for April 30-, 2008. One week before the court date Southwick filed a formal objection to a proposed "telephone appearance" by Crownover. California Rules of Court state in Rule 5.324 (h), that any objection MUST be ruled on at least five days before any scheduled hearing on a Title IV-D hearing in a contested matter. This NEVER happened.

The case and the appeal goes downhill from there. Southwick filed an appeal on May 5, 2008. And culminated in the Supreme Court on October 14, 2009. He was denied Due Process

throughout the ENTIRTY of this appeal from October of 2007 though October of 2009. This entire Appeal MUST be reversed to preserve the principals of American Justice.

SUMMARY OF THE REASONS FOR GRANTING THE WRIT:

Denial of the Constitutional right to due process, equal protection, and the mandates required on states imposed under the supremacy clause are core issues involved in this California family law related Petition for a Writ of Certiorari. Also at issue, is the application of Federal Law coming under the Social Security Act, and

Title IV-D requirements mandated under this law as it applies to the States. This Federal Law regulates how States are to enforce Congress' Child Support Reform Act of 1974. Additionally, embodied within this request are corollary issues relating to alleged obstruction of justice, cover-ups, judicial and attorney hypocrisy, neglect, bias, prejudice and county governmental abuse of rights. Lastly, Petitioner wishes to bring to the attention of this Court the disenfranchisement of thousands of people being abused by Statewide Child Support Enforcement procedures and paternity fraud.

Reform is desperately needed because a great portion of our society is suffering from "Class Bias." This petition is of great nation importance.

This Court ruled on the landmark *Hernandez* case, (infra) in 1954; Hernandez v. Texas, 347 U.S. 475, primarily on the violated due process rights of Mexican Americans as defined under the Fourteenth Amendment, however, this *class bias* issue has now re-emerged and "Morphed" itself into a new disguise. It has impregnated its seed into the body of our society similar to a "Rosemary's Baby" implanted by a vile and invisible "Sheriff of Nottingham."

For these reasons, **"Equal Justice Under the Law."** Should not, and MUST not, be discarded.

REASONS FOR GRANTING THE WRIT:

Due process and equal protection are two cornerstones of our great American Republic. These concepts of jurisprudence have emerged through the embryo of nearly 200 years of monarchial oppression and tyrannical rule cruelly imposed on our forbearers. Most notably, our form of government is fueled by the sovereign will of the people, acted out through the principles of Democracy and enforced through our Judicial, Executive, and

Legislative bodies. Yet, how can our people enjoy the vicarious liberties endowed to us as a promised nation *conceived in liberty and dedicated to the proposition that*: "all men, *(includes women)*, are created equal."? We cannot as a people, discriminatorily apply our laws on a 'pick and choose basis.' Our laws MUST be uniformly applied.

In the 1965-1966 Term, this court was called upon by the Solicitor General Marshall, with assistance from the United States Attorney General, in a case that had rocked the State of Mississippi. That case is now labeled the infamous: "Mississippi Burning

Trial." The aggregate of this case was conspiracy in violation of 18 U.S.C. 241 & 242. Eighteen governmental "officials" had been involved in the horrific murder of three black individuals under "Color of Law." Its reference is: *United States v. Price Et. Al, 383 U.S. 787; 86 S Ct. 1152; 1966 U.S. Lexis 1963.* In *"Mississippi Burning,"* this court laid down fundamental principles, that governmental officials and private persons who act conspiratorially under "Color of Law," are NOT immune from indictment or prosecution at the federal level. But, this alone, is not so much a single reason for opening a

case by the granting of a writ of certiorari, moreover, the reasons should be because there is, or are national issues painted on the canvas of the judicial landscape.

Here, in this issue, presently before this court, are national questions and issues of immense proportion; Due Process, Equal Protection, and now in the modern sphere: Family Law.

Due Process and Equal Protection Issues Must Always be Examined by this Court

As a bald eagle, symbol of the fierce American nation, preens itself and readies for the next consuming flight,

so should the American judiciary. It *should* from time to time "preen" itself by introspective grooming on great national doctrines. Made cognizant first and scrutinized second. By doing so; justice is secured, the rule of law restored, and liberty proclaimed. The California Judicial System has a problem understanding the concept of 'due process' and 'equal protection.' This problem is deeply rooted in ideology inferentially existing in the Supreme Court, the Appellate Courts, and in the various county Superior Courts. These courts appear to have forgotten that our sacrosanct U.S. Constitution stands supreme; even

above their decisions. No more evident is this than in the underlying appeal and the judicial decisions rendered previously heretofore.

Petitioner, Paul J. Southwick (Southwick) was denied his due process rights guaranteed under the Fifth and Fourteenth Amendments of the United Sates Constitution, and hereby challenges this as an unlawful abrogation and abridgement of these secured rights.

California's Due Process Problem Associated With Self Represented Litigants

In 2007, the California Supreme Court issued its decision in ***"Elkins v. Superior Court of Contra Costa," 41 Cal 4th. 1337-1368, [163P3d 160],*** on the issue of "Due Process" vs. "Judicial Economy," with emphasis on the fundamental rights of litigants, primarily, ***pro per litigants,*** as being afforded *their* day in court. Out of this decision, and the judicial darkness that proceeded it, came the establishment of: "The ***"Elkins Family Law Task Force."*** This Task Force, as authorized by Chief Justice Ronald M. George, Chair of the Judicial Council of California, was, and is, to establish draft

recommendations on improving family law in proceedings statewide, primarily where due process is a concern. Yet, thousands of California litigants helplessly and hopelessly flail away in unrepresented style as they feebly assert their rights, or are completely ignorant of them. They swimmingly attempt to be heard in the specter of family law unaided by counsel, while caught in the whirlpool of bias, prejudice and government ineffectiveness. *Especially*, in regard to a paternity or child support issues. Louise Bayles~Fightmaster sits on this task force as a member, and conducts

seminars on how NOT to deny 'due process.' Yet, she failed to apply her own principals in this instance. Enter her name in "Google." Or, simply click onto: www.courtinfo.ca.gov, or type: "Elkins Family Law Task Force, Similarly, another such California case is: *Alan S. Jr., Petitioner v. Superior Court of Orange County, 172 Cal. App. 4th 238; 91 Cal. Rptr.3d 241; 2009 Cal App. Lexis 378.*

Here, the Cal/ App 4th Court addresses some of the very same concerns in the *Elkins* case. In *Alan S (supra)* at fn 24, the court noted the following: "As the author of *Elkins* put it in another context, "*if the motto 'and justice for*

all' becomes *'and justice for those who can afford it'*, we threaten the very underpinnings of our social contract." Compare that with the case of Dickens' fictional Stephen Blackpool, who couldn't afford a divorce in Hard Times ("But it is not for you at all. It costs money. It costs a mint of money."), quoted in re; *Marriage of Cordero (2002) 95 Cal. App. 4th 653, 659, footnote 5, [115 Cal. Rptr. 2d 787].* In the final hoorah of *Alan S.* (supra), the court made its conclusion: "There is a Dickensian quality to the litigation between Alan and Mary, but alas, the facts are no more horrendous than those confronted by our Supreme

Court in *Elkins:* Both cases involve ***Pro~Pers*** thrashing around in an alien environment, where a local court had, as Elkins put it, elevated "efficiency and conservation of judicial resources" over "the countervailing interests of **litigants** as well as the interests of the public in being afforded access to justice." *(Elkins, supra, 41 Cal 4th. At pg. 1353.* (C.J. Ronald M. George wrote the opinion in *Elkins*.) This problem is not exclusive to California. It is a growing concern and problem of national importance that exists in every state and to every jurisdiction where American judicial authority extends. The American

family structure is fragmented. Southwick was never asked if he needed counsel at any stage in this matter, at the onset, during the lower court proceedings *or* on appeal and now must *"go it alone"* in this request. Conversely, Crownover has enjoyed red carpet V.I.P. service at no cost to her whatsoever. The county came to her representation. Then, after the appeal was filed, the state Attorney General's office became involved by state law pursuant to F.C. 17407 (a) (1). Five of them in all. Including Mr. Edmund G. Brown Jr., Chief Attorney General for the state of California and former Governor. Sonoma County

D.C.S.S. DID NOT file one single motion, or action that has brought us all to this point, nor, did Crownover. This is another procedural violation of due process. Southwick filed in his own case, because his professional Contractor's License was at stake. His requested relief was improperly and unlawfully converted into relief for Crownover and Sonoma County DCSS as intervenor without following the provisions of Family Code. 17400 (c). One might wonder why there should be so many Attorney Generals involved in a divorce case. Especially a divorce that has gone on for 20 years, travelled up and down the State of

California, had more than eight superior court judges, one Commissioner, two court case numbers, two appellate court appeals, (one in Ventura; Crownover v. Superior Court of Santa Maria), a hoard of attorneys for Crownover (two for Southwick, the 2nd one abandoned him) a PhD. Clinical Psychologist, Five MFCC's and has involved the Supreme Court of this same state.

42 U.S. Code Section 651-666 Et Sequential.

Both the question and the answer is identified as: "The Title IV-D Federal Block Grant Funding Program."

Statewide, it is a sacred cash cow to Courts, Counties, and the Legislature. The children from this marriage are now grown adults.

A National Concern For Child Support Reform.

In *Family Code 17306 (a) (3),* the California Legislature Found and Declared the following: "Problems collecting child support reflect a **fundamental lack of leadership** and accountability in the collection program." The State of Virginia has problems too, as does the state of Michigan. Ms. Carol Rhodes, a former high ranking Child Support

Enforcement Officer from Michigan gone whistleblower has penning a book concerning this troubling subject. Her Book Is called: *"Friend of the Court Enemy of the Family."*

Her short video can be viewed on '*youtube.com*' through the website: http://www.petitionchildsupportreform .com, (infra)._View Attorney Mr. Isidoro Rodriguez' live testimony before the Virginia Legislature At: http://www.youtube.com/watch?v=Wp-QWJ2hM. Mr. Rodriguez has argued cases before this Court and is a well respected Federal Lawyer. Also on youtube, is Attorney Paul Brundage's

testimony before the Virginia Legislature.

This Court is also invited to view Ms. Marsha Maines live testimony at the same web address. Ms. Maines is a custodial Mother in Virginia in support of statewide child support reform. Rounding out the national sampling of discord is a collection of web postings by Americans that have been injured in the gauntleting juggernaut of Statewide Child Support Enforcement nationwide. Their stories are posted at:

http://petitionchildsupportreform.com/what-we-are-petitioning/ This P.C.S.R.

web~site has had over 16,236 hits and growing. America is a veritable powder keg waiting to go "Sky-High" in a new and different kind of Civil Rights Movement. This time, it will be about Family Law issues and will not just be limited to an allegorical "Mississippi Burning Trial"

Appellate Difficulties.

If Southwick would have received a fair hearing, on the merits, the Fightmaster court would have, *more than likely,* been forced into terminating that remaining portion of the 1992 judgment fraudulently

procured by Crownover, and her attorneys.

This might have triggered a federal audit and investigation into why. The solution to the courtroom debacle? Deny Southwick his rights and sweep it under the rug. Collect the federal enforcement money and simply move on to the next case.

However, Southwick timely appealed and the case was immediately transferred to the First Appellate Division in San Francisco. After 16 months of interlocutory wrangling and an oral argument where Sharon Quinn D.A.G. appeared telephonically,

the State Appeals Court ruled against him. So did the Supremes. If the ruling had been overturned, *more than likely* the Sonoma County DCSS *possibly* would have been *'on the hook'* to return major money to the Federal Government IV-D Program.

California Money Problems Inexplicably Intertwined

The entry level salary for a California Judge is $178,789.00. There are at *least* one thousand five hundred and eleven, (1511) Superior Court Judges in 58 counties. An additional average of 2 Court Commissioners per county

are earning somewhere close to that amount are also on the payroll.

Do the math, 1511 x $178,789.00= $2,701,501,100.00 + 58 x 2 = contributory budgetary crisis. Not counting retirees drawing nearly full pay. In the first week of January 2010, Governor Arnold Schwarzenegger made a passionate public appeal to all Californians to help him solve this State's looming $68 Billion dollar deficit. Yet, one day before this plea, he appointed 9 new judgeships in northern California. Imagine what would happen if California lost its Federal Block Grant Title IV-D funding for committing an alleged

negligent fraud on the federal Government, (42 U.S.C. 651-666, *et seq.*)

In the Likeness of Qui Tam.

This certainly is an issue of great national importance when combined with 49 other states. Petitioner herein, files this writ in the nature, form and the parallel likeness of a: Qui Tam **against** the County of Sonoma Child Support Services. Requesting a federal audit and investigation be conducted by the F.B.I., the Secret Service, and the Attorney General of the United States to determine if

other possible violations exist on their case ledgers.

He further requests, from this court, a Federal Grand Jury Investigation order to be issued, *Sua Sponte* into the alleged Civil Rights violations. No other remedy will suffice and it is authorized by numerous provisions of federal law including the Constitution. Southwick has paid Crownover in excess of $100,000.00 in child support. The issue in 2007-09 was only about 'arrears.' In 1992, when the judgment was rendered by Santa Maria Superior Court Judge Royce Lewellen, the aggregate amount of arrears was; $16,008.00. This was due to

Crownover's, then Southwick, (*formerly*; Margaret A. Koster), rampant interference with his visitation and association with his children as an equal parent. Compounded by spurious and false allegations of a sexual nature primarily directed at him through their daughter.

False Allegations Resurface.

In 1995, Crownover was convicted of thwarting the visitation and association of Southwick's right to interact, specifically with his daughter, on a new round of false police & C.P.S. reports. On that

occurrence, reports were made in Sonoma County and filed before the Hon. Rodney S. Melville in Santa Maria, Ca., 350 miles away by and through Arroyo Grande Attorney Margret R. Stone, Cal Bar #73738. Crownover registered her fraudulently obtained order in Sonoma in 1992. The Sonoma County DCSS made NO attempt to deal with the arrears, resolve, modify, or augment it into the judgment in well over15 years. Yet, Southwick was available. They always knew his whereabouts, and he was paying support. In 1995-6 Southwick went indigent as a result of the allegations. The $16,008.00 amount

ballooned to nearly $80,000.00. Southwick relocated to Sonoma County in early 1997 and climbed out of economic despair. Crownover had no interest in stopping the interest and penalties until the California F.T.B. slapped a lien on her house in 2003, located in Santa Rosa, Ca. She could not re-finance the house she owned with Mr. Glen D. Crownover Jr. because of this. Therefore, she 'Stipulated' with Southwick to end the ordered amount of $670.00. The $80,000.00 is now down to $69,000.00 and some change. Since this re-ignition of litigation, Southwick has

been paying $500.00 a month by order of Fightmaster.

Fraud Upon The Court and False Allegations:

Fraud & Perjury are elevated to a *fraud on the court* when by collusion a party litigant acts together with his or her Attorney in offering fabricated evidence, engages in witness tampering, or conspiracy by attempting to sway a judicial officer into making a preferential decision and issue relative orders. A *"Fraud upon the Court"* has been identified by the 7th circuit court of appeals to: "embrace that species of fraud which does or attempts to, defile

the court itself, or is a fraud perpetrated by officers of the court so that the judicial machinery cannot perform in the usual manor its impartial task of adjudging cases that are presented for adjudication." *Kenner v. C.I.R., 387 F. 3d 689 (1968); 7 Moore's Fed Practice 2d ed., p.512paragraph 60.23.* The 7th Circuit further stated: "a decision produced by *fraud upon the court* is not in essence a decision at all and never becomes final.

Perjury and Subordination of Perjury

All through 1990, Crownover employed the services of Leonard R. Milstein,

Bar # 46992, a former Los Angeles D.A. who in 1990-'91, was arrested by Los Angeles County Sherriff's and transported to L. A., from San Luis Obispo, Ca., to face arraignment on perjury and subordination of perjury charges stemming from a murder case in the late 1980's. A southern California District Attorney by the name of Steve Cooley has had a number of legal battles with this individual including a federal action in which Milstein lost relating to this case.

No Statute of Limitation on Concealed Crime.

The making of a false police report is a crime codified in California Penal Code Section 148.5 and is further made punishable as a misdemeanor. California Penal Code Section 803 (c) States; "A limitation of time prescribed in this chapter does not commence to run until the discovery of an offence described in this subdivision." Thus, it is very easy to see that in this instant case, no one is *"Cracking down on Crime."* Crownover herself made all of the alleged crime reports and admitted to this under oath in late year 1990 and then denied it under oath in April of 1992. Both her and her attorneys were claiming they were being made through

independent third parties. Sharon Quinn moved to strike the crucial piece of evidence proving this by having the transcript of December 10, 1990 excluded from the record on appeal. This court should additionally consider this petition under the ancient doctrinal principal of: *Audita Querela*. Considering the impact and detrimental effects of false allegations of a sexual nature, what they do to children, and *why* they are motivationally employed in family law proceedings.

The California Legislature did enact Family Code 3027.1 in 1998, but it alone is not enough. Decades have

passed without perjurers being prosecuted. Think of the $$$ they lose.

False Allegations are Cruel and Unusual on Children.

See the law review written by: *Ryan C. Coulson (2007) 16 J. Contemp. Legal Issues 233.* Wherein, Mr. Coulson highlights this same issue: *"The growth of child abuse allegations in domestic relations court proceedings are of* grave *concern."* In Arizona, for example, it is codified as a misdemeanor. In this exposing and revealing treatise, Mr. Coulson points to California's, once again,

unwillingness to deal with problematic family law adjuncts.

Federal Legislation Needed.

Perhaps the United States Congress should enact federal legislation stripping states of their Federal IV-D funds for failing to stop this kind of domestic terrorism. Every judge and every commissioner in every courthouse of America is duty bound by their *oath of office* to protect the due process rights of children as proscribed under Article VI of the United States Constitution, Stated as follows: *"This Constitution, and the laws of the United States which shall be made*

in Pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme Law of the land; and the judges in every state shall be bound thereby, any Thing in the Constitution or Laws of any State to the contrary notwithstanding."

This, one would think, *should have* immediate legislative priority when it comes to kids. Further, if this Court agrees with petitioner, it should draft and send a judicial recommendation to the Senate Sub-Committee Chair to open hearings into the plausibility of enacting a federal statute making it a

federal offense for any parent to deliberately inflict mental or emotional injury on a child, by the use of false allegations of a sexual nature. Children deserve the very best they can get from their parents, both of them. This includes the right to parental love and admiration, tenderness, compassion, support, leadership, coaching, emotional support and a myriad of other things. They do not deserve to be left without the essentials of basic human needs. This nation's children are our future in *time capsule* form. In a larger realm, they do not deserve to be 'used' as '*the tool*' of a diseased and poisoned

mind that seeks to destroy a parental relationship. Children do far better when divorced parents get along and work at the mental, emotional and financial welfare of their offspring. Not by being mentally and emotionally abused as this case proves. The nagging problem in this case, is getting around all of the specious lies that have been told for over two decades and from being judicially blockaded. If children are destroyed emotionally and mentally by one parent who gives a child the psychological equivalent of "Munchhausen Syndrome By Proxy," what does this do for a child when he

or she grows into adulthood? Everyone then suffers; the children, the parents, the relatives, the community, the state and so on. In an endless cycle of pain. Culminating in the loss of billions of dollars of net worth, while social and financial dysfunction dismantles on an epic scale. Southwick was never arrested on any charge relating to these allegations. In 1992, Crownover stated on the witness stand that there was NO basis for her allegations. This is printed in transcript form in the record on appeal.

The U.S. Constitution IS Written in Stone.

Returning to the issue of justice situated upon the base of fairness, we find that the people of this great American nation are indeed the inhabitants of an enduring *"Stone Nation"* of historical prominence. As such, are in fact the inheritors of a magnificent gift. Our living Constitution is etched in indivisible granite. It is unshakable, immovable and will endure far longer than any Empire, Kingdom or National Charter coming out of history. *"We the people,"* are ***"E Pluribus Unum".*** Echoed in one great collection of *All the peoples of*

the Earth, joined together in national union and clothed with a star spangled banner of Red, White & Blue.

Our great national principles together with our state laws are engraved on those several stones representing the individual State Constitutions. These statehood stones are perfectly placed in respective order to form *a more perfect union* in pyramidal shape. Our liberties and freedoms are pronounced and declared from the words written on these stones. They were paid for at terrific sacrifice. They cry out continually for justice and are inked by the sacrificial blood of our present and ancestral patriots. Proof that this

great America is a "Stone Nation" is evidenced and appears as such, on the reverse side of the "Great Seal of The United States of America."

Its enduring structured base is numerically established at the prophetic, picto~gratorial and numismatic value of: 2,520 *b.c.*<1776 *a.d.* and dates to antiquity reaching back to the Kingdom of Nebuchadnezzar. Her great manifestos are secured and guaranteed **Rights**. These rights and liberties in law are **NOT** to be tampered with. *S. Carolina v. U.S., 199 U.S. 437, 448 (1905). "The Constitution is a written instrument.*

As such, its meaning does not alter. That which it meant when it was adopted, is means now."

Marbury v. Madison 5 U.S., 137, "The Constitution of these United States is the supreme law of the land. Any law that is repugnant to the Constitution is null and void of law."

Evidence of the first origins of codified law being written in stone exists in the *Louve museum*, France, known as the Code of Hammurabi, a Babylonian King written in the *Akkadian* language in cuneiform script. Its etched cuneiform stele stands seven

feet four inches tall and dates to 1790 B.C.E., (B.C.)

Due Process Withheld.

It is the duty of every courthouse in the land to see to it that these rights and those liberties are carried out to their fullest intent. A courthouse is a sanctuary of justice, *not* a temple of doom.

Many family law litigants suffer without the aid of counsel when a county enforces a contempt citation upon a non custodial parent. Or worse, confiscates the right of mobility or professional license in marsupial styled proceedings. These legislative schemes

are counter-productive. It is here, when due process is denied, that Judicial Officers are acting in the covert interests of a county's want for federal Title IV-D funding.

Those who choose to walk out on their children NEED to suffer some kind of punishment, but tempered. They *should* be allowed an opportunity for amnesty if they voluntarily step forward to the plate of responsibility. Punishing those who are denied equal access to the law, or access to their minor kinfolk, by not enforcing visitation orders is improper for federal funding purposes. In California, Commissioners are paid in partly the

county and in partly by the state. Therefore, the presumption of prejudice and bias is not only unseen, but invisibly automated when they act outside of due process.

California Family Law in a larger realm is a case of:

"California Burning" because it is burning from within. It is melting non custodial parent's rights of equal co-parenting and to equal access under the law.

This appeal is not about Title IV-D reform, as badly as it is needed, rather, it is about a deprivation of Constitutional Rights, Equal

Protection, and the Supremacy Clause that requires these rights be upheld under Article VI, paragraph [2] of the United States Constitution. There exists ample evidence both in the record on appeal and in the lower case to make a sufficient showing before this Court that these rights were so violated.

A profound national effect on so many individuals endowed with both inalienable and unalienable rights is looming large

Crimes Against Children.

When a parent resorts to the use of fabricated police & C.P.S. reports, and

a false D.A. report as evidence to sway a judicial officer into making first, a temporary supervised visitation order, then a temporary custody order that lasted nearly 3 years, and subsequently reverses herself by lying under oath, aided again by counsel, into a permanent custody order, she must be brought under the light of judicial scrutiny. No matter the length of time. California Penal Code 803 expressly codifies no statute of limitation to prosecute a person for felony perjury committed under oath as defined under P.C. 118, or 118 (a). It is a crime against the child first, and a crime against public policy second. Penal

Code 273 a. (b) makes it a crime to emotionally or mentally inflict injury to a child.

Appellate Difficulties.

On February 25, 2009, Southwick filed an opposition to Deputy State Attorney General Sharon Quinn's informal *Ex-Parte* request to strike, *sent in letter form*, the certified transcript he was attempting to get before Administrating and Presiding Appellate Justice, William R. McGuiness. It was also a captioned 'notice' of an attempt by Quinn to allegedly obstruct justice in violation of California Penal Codes 135, 136(2), 14,

118, 118(a) & section 4. He was overruled.

The Appearance of Obstruction of Justice.

In the spring of 2006, Commissioner Louise Bayles~Fightmaster together with John Greacen, Greacen Associates LLC, conducted the "Statewide Conference on Self-Represented Litigants." Hosted at the prestigious Renaissance PARC 55 Hotel in San Francisco. This was a conference held exclusively for Judges and Commissioners throughout California in how to insure the rights

of Pro-Pers as coming before them in their respective courtrooms.

The very first topic on the agenda was: 'The Ethical Context'

In the power point presentation was the ABA Model Code of Judicial Conduct.

1. Cannon 3 B(7) requires a judge to "accord to every person who has a legal interest in a proceeding...the right to be heard according to law."
2. Cannon 2A requires the judge to act at all times in a manner that promotes

public confidence in the ...impartiality of the judiciary.

Inherent Conflict?

ABA Standards Relating to Trial Courts, Standard 2.33. Conduct of cases where Litigants Appear Without Counsel

"When litigants undertake to represent themselves, the court should take whatever measures may be reasonable and necessary to insure a fair trial."

Mind you, this is Commissioner Fightmaster speaking to a hotel conference packed with judges and commissioners.

(See Appendix E)

California Judicial Canons; Chapter 3

Because Commissioner Fightmaster cut Southwick off in his opening statement and immediately prevented him from going further, she denied his rights. Dismissing him from the courtroom regarding the newly discovered fact of a fabricated police report by Crownover. This was and additional abuse of power. Denying him any opportunity to have the transcript of December 10, 1990 introduced into evidence, was yet another.

This proves the deprivation of his constitutional right to a fair proceeding. These facts were recorded in Reporter's transcript and in the Clerk's transcript in the record on appeal.

This clearly appears to be a violation of Judicial Cannons Section I [3.00] "The exercise of judicial

power is constrained by adherence to the rule of law." It is an abuse of judicial power to advance a private interest, coerce defendants to plead guilty, redress a personal affront or carry out some private mission of court reform by use of improper means."

Attorney Misconduct Codified in Cal B & P Code 6103.

Attorney misconduct is codified in Cal. Business and Professions Code 6102 *Et Seq.*, & Cal Rules of Court at section 1-100, establishes the ground rules for attorney conduct statewide.

The Un-Published Opinion of 7/31/09.

In analyzing the opinion authored Mr. Justice Jenkins any reader will discover that it begins with him taking Crownover's police report of an alleged "peek under the covers" allegation to an allegation of

"inappropriate touching" incident, then to an alleged "Molestation" to finally an outright alleged "sexual assault" of a then five year old child. Such bizarre literary writings show more proof the Cal App 1/3 had no intentions of looking at the appeal from a neutral third party standpoint.

Jenkins points to Southwick as failing to conduct himself as a blue ribbon Johnny Cochran 'Jouster' neglecting to conduct the proceedings according to the rules of Family Law and the California Rules of Court. However, he is mistaken. The court conducts the proceedings NOT the Pro-Per Litigant. Commissioner Fightmaster's behavior reminds this writer of the kangaroo proceedings that went on in North Viet Nam when our P.O.W's were being tried for crimes they did NOT commit.

Pursuant to California Const. Article VI Section 21 a commissioner acting as a temporary judge MUST possess a signed stipulation from BOTH parties before any proceeding are conducted. Which reads as follows:

"On stipulation of the parties litigant the court may order a cause to be tried by a temporary judge who is a member of the state bar, sworn and empowered to act until final determination of the cause." This is now and there never was any such stipulation.

Fightmaster's California Bar number is: 86916.

The opinion written by former Federal Justice Martin Jenkins was nothing more than a plagiaristic adaptation of a half told story. This court should strike down such decisions as unconstitutional obstructionism. On page eight,

section II of the opinion, authored by Justice Jenkins, wherein he writes these words; *"In reaching this conclusion, we acknowledge Southwick's claim that the trial court violated his due process rights by denying him a fair hearing. However, because we conclude that the trial court conducted a sufficient review of the evidence to support its determination that Southwick had no legal basis to set aside the judgment, we believe this claim is likewise[??] without merit."*

A *sufficient* review? Absolutely impossible. She never read the second half of his motion to set aside. Because, if she did, she *more than likely* would have seen the police report filed in Santa Maria in March of 1990 by Crownover herself. Ten days before a scheduled O.S.C. hearing before the Hon. Richard St. John. Her attorney at that time was Joni Lee

Gray Cal Bar # 134802 Marguerite's name appears on this report as the reporting party.

Mr. Justice Jenkins offers no legal support for this contention in dicta. No case law, no federal or state law and NO California case citations for this rationale.

How could Commissioner Fightmaster possibly have seen or reviewed the evidence in transcript form proving felony perjury if it was NOT in the six volumes of the record? She disallowed an opportunity for him to proffer this certified transcript of December 10, 1990. An appeal IS a challenge to an alleged felony perjury. Under California's Judiciary Act of the State Constitution ALL judicial officers are REQUIRED to refer any alleged felony crimes over to the local Grand Jury.

Penal Code makes it an additional FELONY under section 137 et seq. to dissuade a witness to a crime from offering information or testimony to a law enforcement official. An Attorney General IS a law enforcement officer defined under P.C. 137 (e). Additionally Penal Code 32 states: Accessories defined: Every *person who, after a felony has been committed, harbors conceals or aids a principal in such felony, with the intent that said principal may avoid or escape from arrest, trial conviction or punishment, having knowledge that said principal has committed such felony or has been charged with such felony or convicted thereof, is an accessory to such felony." (Enacted 1872).*

Striking Evidence of a Crime.

On January 26, 2009, The Hon. William R. McGuiness, P.J., issued an order indicating the previous transcript record was not offered at the hearing and ordered it excluded. This transcript was not in the lower court case, (Somoma-957331 originally Santa Maria- 65005), because it had been discovered the night before, on April 29, 2008. Again, how is it, if Southwick was not able to submit it into evidence, or place it before the court, that the trial court conducted a sufficient review of his motion to support her determination? Incidentally, is it true that judicial determinations come *after* proceedings and NOT *before*?

Californians and other state residents cannot bear this crosscut kind of judicial abuse. The lower court, and the appellate court foreclosed him of his federally protected rights of fundamental fairness,

and the decision rendered must not be allowed to stand because it is REPUGNANT to our constitution as defined in 28 U.S.C. Section 1257, and demonstrates a positive showing of this deprivated denial of protected rights. Southwick MUST be allowed an opportunity to prove his claims against Crownover. Then after, a full hearing is conducted, a proper decision could be made, and not by a cheap telephone appearance.

TITLE 18 > PART I > CHAPTER 13 > § 242

§ 242. Deprivation of rights under color of law

"Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any

rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, or to different punishments, pains, or penalties, on account of such person being an alien, or by reason of his color, or race, than are prescribed for the punishment of citizens, shall be fined under this title or imprisoned not more than one year, or both; and if bodily injury results from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire, shall be fined under this title or imprisoned not more than ten years,

> or both; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse, or an attempt to commit aggravated sexual abuse, or an attempt to kill, shall be fined under this title, or imprisoned for any term of years or for life, or both, or may be sentenced to death."

It is abundantly clear that Commissioner Louise Bayles~ Fightmaster denied Southwick's due process rights as stated by Mr. Justice Jenkins. However, Justice Jenkins attempts to insert a provisional remedy approving of her actions further denying Southwick relief. To deny due

process is to abuse one's judicial discretion, because there IS no discretion for this. Such allowances DO NOT appear in the Fifth, Fourteenth, or Sixth amendments of the United States Constitution.

Southwick hereby challenges the Opinion as a further deprivation of these same rights. The California Supreme Court ruling *en banc* surely *should have* recognized this and granted his Petition for Review.

Conspiracy Against Rights

18 USC Sec. 241

TITLE 18 - CRIMES AND CRIMINAL PROCEDURE

PART I - CRIMES

CHAPTER 13 - CIVIL RIGHTS

Sec. 241. Conspiracy against rights:

"If two or more persons conspire to injure, oppress, threaten, or intimidate any person in any State, Territory, Commonwealth, Possession, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or if two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or binder his free exercise or enjoyment of any right or privilege so secured - They shall be fined under this title or imprisoned not more than ten years, or

both; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill, they shall be fined under this title or imprisoned for any term of years or for life, or both, or may be sentenced to death. Even without the Transcript of December 10, 1990 included in the record on appeal there is ample evidence to prove Crownover fabricated evidence and committed a fraud upon the court. It additionally exists in the six volumes Sharon Quinn failed to examine. She says so in her Response Brief. The fabricated police report is IN the record on appeal along with numerous documents declared under "penalty of perjury" thereunto by Crownover.

Southwick was NOT allowed to argue on the merits of his Family Code 3691 motion, and the Opinion that Justice Jenkins penned bears this out. There is nothing more perverse in a courthouse than a judge, temporary judge, or commissioner that denies due process. No clause in any code or statute enacted by any state legislature can abridge the fundamental elements of the fourteenth amendment. The entire ninth page of the Opinion, is an appellate demonstration that Southwick's due process was violated in denying him an opportunity to be heard. How Mr. Justice Jenkins, Mr. Justice Siggins, and Presiding Justice William McGuiness could arrive at their decision is bewildering.

The Subordinate Judicial Officer Working Group.

Something is apparently "Disconnected." Justice McGuiness is Chair of the "Subordinate Judicial Officer Working Group." On page 23, section 3 listed under **Recommendations** of this Judicial Council Manual is the statement: "Federal funding for child support Commissioners limits the duties that can be assigned to these officers and requires that they be subordinate officers. The intent of the funding is to increase the number of judicial officers available to hear this specific case type.

The funding would be lost if judges rather than SJOs, were assigned to hear child support matters."

Family Code Section 4251 through 4252 provides court commissioners to preside as temporary judges, yet, the Cal Const. in Article VI Section 21 declares commissioners or attorneys acting *pro tem*, MUST have a signed stipulation from BOTH parties

BEFORE they conduct any family law actions. Neither, Southwick or Crownover stipulated to Commissioner Louse Bayles~Fightmaster appearing in ANY of the proceedings at ANY time. Nor, did Commissioner Fightmaster recite from the bench any verbal disclosure or 'Notice' concerning this.

Excerpt from the Subordinate

Judicial Officer working Group:

Overview

The Significance of Family Law Cases:

"Family law cases are critically important to litigants, children, and families as well as the community at large. Decisions by the family court can have a lasting impact on people's lives:

> they involve important and sensitive issues such as with whom a child will reside, the safety of the parties, child and spousal support, and the division of a family's assets and debts. When the parties cannot agree, the family law judicial officer must make these important decisions."

Family Code 3691 is the California equivalent to Federal Rules of Civil Procedure, 60 (d) (3). This Federal Rule clearly states that ***fraud upon the court*** is not subject to a statute of limitations and is made subject to a "*savings clause.*" What then defines a fraud on the court? We need only look to the following cases and Federal Court review: The term "fraud upon the court", as termed by the federal courts in their interpretation of the Federal Rules of

Civil Procedure 60(b) (3), is explained thusly; "fraud upon the court" under the savings clause is distinguishable from "fraud . . . misrepresentation, or other misconduct." Again, California's F.C. 3691. is clearly a re-codified version of F.R.C.P. 60(b)(3). *Fraud upon the court* is further defined as: "The odious attempt to subvert the administration of justice." ~Mr. Justice Roberts statement from this court in; *Hazel-Atlas Glass Co. v. Hartford Empire Co., 322 U.S. 238, 64 S Ct.997, 88 L. Ed. 1250 (1944).* Generally speaking, only the most egregious misconduct, such as bribery of a judge or members of a jury, or the fabrication of evidence by a party in which an attorney is implicated, will constitute a *fraud on the court*. Again, *Hazel-Atlas Glass Co. v. Hartford-Empire Co., (Supra), Root Refin. Co. v. Universal Oil Products, 169 F.2d 514 (3d Cir. 1948);*

7 J. W. Moore, Federal Practice, para. 60.33 at 510-11. "Fraud destroys the validity of everything into which it enters," *Nudd v. Burrows (1875.) 91 U.S. 426,23 Led 286,290;* particularly when "a judge himself" is a party to the *fraud" Cone v. Harris (Okl.), 230 P.721723 Windsor v. Mc Veigh (1876), 93 US 276,23 led 914, 918.*

CONCLUSION:

This is a prime example of a case in *Sui Generis.* This court deals with violations of vested and secured rights defined under our Federal Constitution. The issue[s] before this court is: Was a Constitutional right or rights denied, withheld, or deprived?

Americans will come and go according to the number of their days and according to the times

and seasons, but the great Constitution of The United States of America will stand longer that anyone can imagine. For this reason, and the ones contained in this petition, Petitioner requests this Court GRANT the Writ of Certiorari.

Respectfully Submitted,

/s/ Paul J. Southwick

Paul J. Southwick, Presenting in *Pro Se*

CERTIFICATE OF WORD

COUNT

No. 20-_____

Paul J. Southwick

Petitioner

v.

Marguerite A. Crownover et. al.

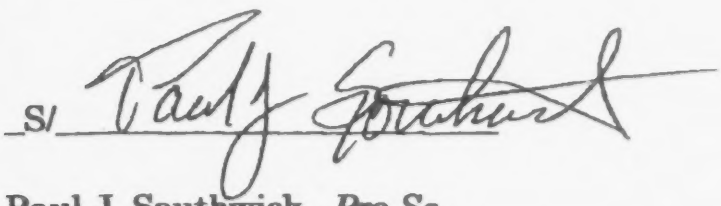
Respondents

As required by Supreme Court Rule 33.1 (h), I certify that the petition for a writ of certiorari

contains 8,716 words, excluding the parts of the petition that are exempted by Supreme Court Rule 33.1 (d).

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: January 12, 2010.



S/ Paul J. Southwick

Paul J. Southwick, *Pro Se*

End of Doc. 1-12-2010